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BEFORE THE
ILLINOIS COMMERCE COMMISSION

City of Mt. Carmel, Illinois,) DOCKET NO.
Petitioner,) T08-0114
)
v.)
)
Norfolk Southern Corp. and)
Department of Transportation of)
the State of Illinois,)
Respondents.)

In the matter of the petition for)
the Order of the Illinois Commerce)
Commission authorizing the)
construction of a proposed grade)
crossing at proposed Empire)
Street, an extension of existing)
Empire Street in the City of Mt.)
Carmel with the tracks of Norfolk)
Southern Corp. in the County of)
Wabash, Illinois)

Springfield, Illinois
Wednesday, October 29, 2008

Met, pursuant to notice, at 10:00 a.m.

BEFORE:

Dean Jackson, Administrative Law Judge

SULLIVAN REPORTING COMPANY, by
Daphne G. Killam, Reporter
CSR License #084.004413

1 APPEARANCES :

2 Tom Price
3 801 W. 9th Street
4 Mt. Carmel, Illinois 62863

5 (Appearing on behalf of the City
6 of Mt. Carmel)

7 Neil Flynn
8 1035 S. 2nd Street
9 Springfield, Illinois 62704

10 (Appearing on behalf of Norfolk
11 Southern Railway Company)

12 Jeff Harpring
13 2300 S. Dirksen Parkway
14 Springfield Illinois 62764

15 (Appearing on behalf of IDOT)

16 Aaron Toliver
17 527 E. Capitol Avenue
18 Springfield, Illinois 62701

19 (Appearing on behalf of Staff
20 Witnesses of the Illinois Commerce
21 Commission)

22 Lawrence Parrish
Chief Counsel's Office
300 West Adams
Chicago, Illinois 60606

(Appearing on behalf of IDOT)

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I N D E X

(No witnesses presented)

EXHIBITS

	<u>MARKED</u>	<u>ADMITTED</u>
City of Mt. Carmel's Ex. A		11
City of Mt. Carmel's Ex. B		11
City of Mt. Carmel's Ex. C		11
City of Mt. Carmel's Ex. D		11
City of Mt. Carmel's Ex. E		11
City of Mt. Carmel's Ex. F		11
City of Mt. Carmel's Ex. G		11
City of Mt. Carmel's Ex. H		11
City of Mt. Carmel's Ex. I	12	12
City of Mt. Carmel's Ex. J	12	12

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1 kind of walked this thing through. And obviously,
2 Neil Flynn is here representing Norfolk Southern
3 Railway. Teresa Peterson's here representing IDOT.
4 And we have all been working on this thing and have
5 really hammered it all out and in complete agreement
6 that the 7th Street crossing should be closed and
7 that the Empire Street should go forward. It's a
8 major economic development for the City of Mt. Carmel
9 for future expansion.

10 We're prepared to offer any testimony
11 you might have here today. I have Randy Sims from
12 the City, who's the economic development person. We
13 have Merl Williams, who's the administrator, and we
14 have Bob Hughes from Nikart Engineering, who prepared
15 all the engineering to the project.

16 JUDGE JACKSON: Thank you. And what's your
17 address and phone number, Mr. Price, for the record?

18 MR. PRICE: My office address is 801 West 9th
19 Street, Mt. Carmel, Illinois, 62863.

20 JUDGE JACKSON: And phone number?

21 MR. PRICE: 263-6591, area code 618.

22 JUDGE JACKSON: Great. Thank you. And,

1 Mr. Flynn, you're here for Norfolk Southern?

2 MR. FLYNN: Yes. My name is Neil F. Flynn. My
3 business address is 1035 South 2nd Street,
4 Springfield, Illinois, 62704. And I'm appearing
5 today for Respondent, Norfolk Southern Railway
6 Company.

7 JUDGE WALLACE: It sounds like you have been
8 working with Mr. Price, Staff and IDOT?

9 MR. FLYNN: We have, Your Honor.

10 JUDGE JACKSON: Great. Thank you. IDOT.

11 MR. HARPRING: Jeff Harpring representing the
12 Illinois Department of Transportation. It's located
13 at 2300 South Dirksen Parkway in Springfield,
14 Illinois.

15 JUDGE JACKSON: Thank you. And we have from
16 Staff.

17 MR. TOLIVER: Aaron Toliver, Staff of the
18 Commerce Commission, 527 East Capitol Avenue,
19 Springfield, Illinois, 62701.

20 JUDGE JACKSON: Thank you. Let me state for
21 the record first that before we went on the record, I
22 half kiddingly asked if the parties had an agreed

1 order drafted for me, and Mr. Price handed me an
2 agreed draft order. Wonderful.

3 What about funding? Have all the
4 funding issues been resolved, Mr. Price?

5 MR. PRICE: All funding issues have been
6 resolved, yes.

7 JUDGE JACKSON: All right. Mr. Toliver, are
8 there any grade crossing protection funds involved?

9 MR. TOLIVER: No.

10 JUDGE JACKSON: All right. I haven't had a
11 chance to review the draft agreed order. Who's
12 paying?

13 MR. HARPRING: On behalf of the Department of
14 Transportation, we're funding federal rail and safety
15 funds for the installation of the flash line signals
16 and gates at the new proposed Empire Street location.

17 JUDGE JACKSON: Great. Mr. Flynn, is Norfolk
18 Southern -- it's a guess -- would maybe be taking
19 care of the costs to close and barricade the
20 7th Street Crossing?

21 MR. FLYNN: Under the draft order, it's the
22 city's responsibility to install both a temporary and

1 the permanent barricade at 7th street once the
2 Empire Street crossing is open to traffic and the
3 signals to be installed there are operating.

4 JUDGE JACKSON: Thank you. Mr. Price, what's
5 the --

6 MR. PRICE: That's correct.

7 JUDGE JACKSON: Okay. And the time frame?

8 MR. PRICE: Once Empire Street is open, I would
9 say within at least 30 days. As soon as possibly,
10 we'll close 7th Street.

11 JUDGE JACKSON: Empire Street, has a new
12 stretch when built yet?

13 MR. PRICE: No.

14 JUDGE JACKSON: Okay. How long will that take?

15 MR. PRICE: The contract has not been awarded
16 yet.

17 JUDGE JACKSON: Okay. The draft agreed order,
18 what does that provide for? 12 months? 18 months?
19 Two years?

20 MR. TOLIVER: 12 months.

21 JUDGE JACKSON: How long is the stretch of
22 roadway between Route 1 and 15?

1 MR. PRICE: Where is Robert?

2 MR. HUGHES: A half a mile.

3 JUDGE JACKSON: A half a mile?

4 MR. HUGHES: From 15 to the railroad?

5 JUDGE JACKSON: Right.

6 MR. HUGHES: Approximately 400 feet, 350, 400

7 feet.

8 JUDGE JACKSON: All right. I'm going to start

9 with the Railroad and then go to IDOT and Staff. Do

10 we have a need for testimony today?

11 MR. FLYNN: Your Honor, I think all of the

12 evidence that would otherwise be put in on behalf of

13 the Railroad -- I'll speak for that -- has been

14 incorporated in the draft order that's been

15 submitted. And on the basis of that, there's no

16 additional testimony that Norfolk believes needs to

17 be presented on its behalf.

18 JUDGE JACKSON: Thank you. Mr. Harpring?

19 MR. HARPRING: I'm not aware of any other

20 evidence that needs to be put on today. We're good

21 with the draft agreement or the agreed to order.

22 JUDGE JACKSON: All right. Great.

1 Mr. Toliver, do you need any testimony?

2 MR. TOLIVER: We need a few exhibits entered
3 for the newspaper notification from the City of
4 Mt. Carmel. Other than that, I think all the
5 testimony is included in the draft order.

6 JUDGE JACKSON: All right. Let's see. Now,
7 attached to the original petition in the case, we had
8 Exhibits A, general location map; B, aerial photo; C,
9 cross section of proposed roadway; D, planned profile
10 of roadway and railroad intersection area; E, traffic
11 data for the proposed roadway; F, various letters
12 from the engineering, the Commission and the Illinois
13 Department of Transportation; Exhibit G, ground level
14 photos of the proposed crossing area and the existing
15 7th Street crossing; and H, contact information.

16 So I would assume nobody has any
17 objections to the admission of all those exhibits.

18 MR. FLYNN: I have no objection, Your Honor.

19 JUDGE JACKSON: Mr. Harpring?

20 MR. HARPRING: No objection.

21 JUDGE JACKSON: Mr. Toliver?

22 MR. TOLIVER: No objection.

1 JUDGE JACKSON: They will be admitted, then.
2 (Wherein, City of Mt. Carmel's
3 Exhibit A, City of Mt. Carmel's
4 Exhibit B, City of Mt. Carmel's
5 Exhibit C, City of Mt. Carmel's
6 Exhibit D, City of Mt. Carmel's
7 Exhibit E, City of Mt. Carmel's
8 Exhibit F, City of Mt. Carmel's
9 Exhibit G and City of Mt. Carmel's
10 Exhibit H are admitted into the
11 evidentiary record at this time.)
12 MR. PRICE: I would say, Your Honor, that's the
13 publication notice and the public hearing that was
14 held on August the 25th, and there were no
15 objections.
16 JUDGE JACKSON: All right. And that's
17 regarding the closure of the 7th Street crossing,
18 correct?
19 MR. PRICE: Correct.
20 JUDGE JACKSON: Okay. Let's have the court
21 reporter mark that Exhibit I.
22

1 (Wherein, the Court Reporter
2 marked City of Mt. Carmel's
3 Exhibit I and City of Mt. Carmel's
4 Exhibit J at this time.)

5 JUDGE JACKSON: All right. We have the
6 publication as Exhibit I and second publication as
7 Exhibit J. And the Exhibit J is the publication in
8 the Daily Harold.

9 Any objection to the admission of I
10 and J?

11 MR. FLYNN: None, Your Honor.

12 MR. TOLIVER: No.

13 MR. HARPRING: No.

14 JUDGE JACKSON: This is too easy. This is
15 nice. All right. They'll be admitted.

16 (Wherein, City of Mt. Carmel's
17 Exhibit I and City of Mt. Carmel's
18 Exhibit J are admitted into the
19 evidentiary record at this time.)

20 JUDGE JACKSON: Again, I haven't looked at the
21 proposed draft order. What's the train traffic at
22 the location of the new crossing?

1 MR. FLYNN: Your Honor, approximately 22
2 movements single mainline through 7th Street, the
3 proposed Empire Street. And is it Wabash? Is that
4 the next to the east?

5 MR. TOLIVER: Oak Street.

6 MR. FLYNN: I'm sorry. Oak.

7 JUDGE JACKSON: Freight?

8 MR. FLYNN: All freight, no passenger, single
9 mainline.

10 JUDGE JACKSON: All right. Well, you haven't
11 left me anything to do.

12 MR. FLYNN: Your Honor, I had one matter. I
13 don't think it requires any testimony. But the draft
14 order has a 12-month time frame. And we just had a
15 little discussion off the record prior to the
16 commencement of the hearing that it's NS's
17 understanding to add the proposed crossing at Empire
18 Street, while it's not installed and available, that
19 electrical power will be available in order for the
20 installation to be completed and for the installation
21 of the gates and lights to be installed within that
22 time frame. Is that correct?

1 MR. PRICE: That's correct.

2 JUDGE JACKSON: Okay. Great. If somebody
3 could e-mail me a copy of the draft agreed order in
4 Word format. Mr. Toliver, could you do that?

5 MR. TOLIVER: I'll do that.

6 JUDGE JACKSON: Then I'm just going to mark the
7 record today heard and taken. And I will place it in
8 final form for the Commission and write my memo
9 recommending the Commission enter it. And we will
10 get it on -- it's a bit late to get it on the
11 November 13th bench session. But it would be on the
12 December 3rd bench session.

13 Is that okay, Mr. Price?

14 MR. PRICE: That's fine.

15 JUDGE JACKSON: Okay. Yes, sir.

16 MR. PARRISH: Your Honor, for the record, I
17 would like to record to indicate that I did appear on
18 behalf of the Department of Transportation. And by
19 way of introduction, I'm Lawrence Parrish from the
20 chief counsel's office of the Illinois Department of
21 Transportation.

22 JUDGE JACKSON: Give us your address and phone

1 number.

2 MR. PARRISH: 300 West Adams, Chicago,
3 Illinois, 60606. The telephone number is
4 (312)793-2255.

5 JUDGE JACKSON: Thank you, Mr. Parrish. You
6 drove a ways, too.

7 MR. HARPRING: Can we go off the record?

8 JUDGE JACKSON: Sure.

9 (Wherein, a discussion was held
10 off the record at this time.)

11 JUDGE JACKSON: Is there anything else to come
12 before us today?

13 MR. FLYNN: Nothing, Your Honor.

14 JUDGE JACKSON: Mr. Price?

15 MR. PRICE: We're through.

16 JUDGE JACKSON: We'll mark the record heard and
17 taken.

18 (HEARD AND TAKEN.)

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